

§ 1357.10

not it has transferred funds under this section.

[47 FR 30925, July 15, 1982; 47 FR 36647, Aug. 23, 1982]

PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV-B

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AUTHORITY: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq.; 42 U.S.C. 1302.

§ 1357.10 Scope and definitions.

(a) *Scope.* This part applies to State programs for child welfare services (including related administrative expenditures) under title IV-B of the Act.

(b) Child welfare services under the title IV-B State plan must be available on the basis of need for services and must not be denied on the basis of financial need or length of residence in the State.

(c) *Definitions.* *Child Welfare Services* means the definition of services contained in section 425(a)(1) of the Act for which the State agency is responsible. (For purposes of 45 CFR 1357.40, Direct Payments to Indian Tribal Organizations, substitute "Indian Tribal Organization" for "State agency" wherever State agency appears.)

Child Welfare Services Plan (CWSP) means the document developed through joint planning which describes the child welfare services program for which the State agency is responsible, including services, program deficiencies, plans for program improvement and allocation of resources by type of service.

Joint Planning means State and Federal review and analysis of the State's child welfare services, including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program improvement, and development of goals and objectives to

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enhance the capability of the State in providing child welfare services.

[48 FR 23117, May 23, 1983]

§ 1357.15 Child welfare services State plan requirements and submittal.

(a) In order to be eligible for Federal financial participation (FFP) under this part and title IV-B of the Act, a State must have a Child Welfare Services State Plan (CWSP) which meets the requirements of this section, sections 422 (a) and (b) of the Act and 45 CFR part 1355.

(b) (1) The title IV-B State plan assurances required by sections 422(b) (1) through (4) and (7) and (8) of the Act may be submitted one time only and will remain in effect on an on-going basis. However, these assurances must be amended when significant changes are made in a State's program in these areas.

(2) The descriptive information on the State's services program required by section 422(b) (5) and (6) of the Act must be submitted and be in effect for one, two or three fiscal years. The State may select which of the three intervals it wishes to use.

(c) In meeting the requirements of section 422(b)(5) of the Act, the State plan must contain a description of child welfare services provided to children and their families in the State and specify the geographic areas where these services will be available.

(d) In meeting the coordination requirements of section 422(b)(2) of the Act, and in the event that an Indian Tribal Organization (ITO) in a State applies for and receives direct title IV-B funding under section 428 of the Act, the State agency must make every reasonable effort to coordinate its title IV-B program with the title IV-B program of the ITO. The State must provide a copy of the title IV-B State plan upon request of the ITO.

(This requirement has been approved by the Office of Management and Budget under OMB Control Number 0980-0142)

(e) (1) In implementing the requirements of this section and sections 427(a) (2)(C) and 427(b) (3) of the Act, the State must specify, in its title IV-

B State plan, which preplacement preventive and reunification services are available to children and families in need.

(2) The services specified may include: Twenty-four hour emergency caretaker, and homemaker services; day care; crisis counseling; individual and family counseling; emergency shelters; procedures and arrangements for access to available emergency financial assistance; arrangements for the provision of temporary child care to provide respite to the family for a brief period, as part of a plan for preventing children's removal from home; other services which the agency identifies as necessary and appropriate such as home-based family services, self-help groups, services to unmarried parents, provision of, or arrangements for, mental health, drug and alcohol abuse counseling, vocational counseling or vocational rehabilitation; and post adoption services.

(f) The State plan may be written in a form determined by the State.

(g) The jointly developed State plan must be submitted to the appropriate Regional Office, ACYF. The Regional Office, ACYF will notify the State when the State plan meets all the requirements of the Act.

(h) In meeting the requirements of section 422(b)(8), each State must provide assurances that it will meet the requirements for data reporting for foster care and adoption as described in 45 CFR 1355.40 and transmit the required data in the form and manner prescribed by that section.

[48 FR 23117, May 23, 1983, as amended at 58 FR 67938, Dec. 22, 1993; 59 FR 13535, Mar. 22, 1994]

§ 1357.20 Child abuse and neglect programs.

The State agency must assure that, with regard to any child abuse and neglect programs or projects funded under title IV-B of the Act, the requirements of paragraph (3) of section 4(b) of the Child Abuse Prevention and Treatment Act of 1974, as amended 42 U.S.C. Sec. 5103(b)(3) (Pub. L. 93-247), are met.

[48 FR 23118, May 23, 1983]

§ 1357.25 Requirements for eligibility for additional payments under section 427.

(a) For any fiscal year after FY 1979 in which a sum in excess of \$141,000,000 is appropriated under Section 420 of the Act, a State is not eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to \$141,000,000 unless the State complies with the requirements of Section 427(a) of the Act.

(b) In meeting the requirements for the inventory and statewide information system in sections 427 (a)(1) and (2)(A) of the Act, the inventory and statewide information system must include those children under the placement and care responsibility of the State title IV-B or IV-E agencies. At the State's discretion, other children may be included. The six month requirement in section 427(a)(1) and the twelve month requirement in section 427(a)(2)(A) of the Act must also be met.

(The requirement has been approved by the Office of Management and Budget under OMB Control Number 0980-0138)

(c) If, for each of any two consecutive fiscal years after FY 1979, there is appropriated under Section 420 of the Act a sum equal to or greater than \$266,000,000, a State's allotment amount for any fiscal year after two such consecutive fiscal years shall be reduced to an amount equal to what the allotment amount would have been for FY 1979 unless the State has implemented the requirements of section 427(b) of the Act.

(d) In meeting the requirements of section 427(a)(2)(B) of the Act for dispositional hearings the State agency must meet the requirements of section 475(5)(C) of the Act and 45 CFR 1356.21(e).

(e) A State may appeal a final decision by ACYF that the State has not met the requirements of this section and section 427 of the Act to the Department Grant Appeals Board under the provisions of 45 CFR part 16.

[48 FR 23118, May 23, 1983]

§ 1357.30 Fiscal requirements (title IV-B).

(a) The requirements of this section shall apply to all funds allotted or reallocated to States under title IV-B and to all funds not needed for foster care which are transferred from title IV-A or title IV-E and awarded to States under title IV-B.

(b) Allotments for each State shall be determined in accordance with section 421 of the Act.

(c) Payments to States shall be made in accordance with section 423 of the Act.

(d) In the event of a State's failure to comply with the terms of the grant under title IV-B and with the regulations listed in § 1355.30, the provisions of §§ 74.113 through 74.115 of this title shall apply.

(e) Federal financial participation is available only if costs are incurred in implementing sections 422, 423, and 425 and, when applicable, section 427 of the Act, and in accordance with the grants administration requirements of 45 CFR Part 74 except that—

(1) Non-public third party in-kind contributions may not be used to meet the requirements of the non-Federal share of the costs of programs funded under this part.

(2) The total of Federal funds used for the following purposes under title IV-B may not exceed an amount equal to the FY 1979 Federal payment under title IV-B:

(i) Child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, plus;

(ii) Foster care maintenance payments, plus;

(iii) Adoption assistance payments.

(3) Notwithstanding paragraph (e)(2) of this section, State expenditures required to match the title IV-B allotment may include foster care maintenance expenditures in any amount.

(4) Funds awarded under title IV-B may not be used for the purchase, construction, or other capital costs for child care facilities.

(f) *Maintenance of effort.* (1) A State may not receive an amount of Federal funds under title IV-B in excess of the Federal payment made in FY 1979

under title IV-B unless the State's total expenditure of State and local appropriated funds for child welfare services under title IV-B of the Act is equal to or greater than the total of the State's expenditure from State and local appropriated funds used for similar covered services and programs under title IV-B in FY 1979.

(2) In computing a State's level of expenditures under this section in FY 1979 and any subsequent fiscal year, the following costs shall not be included—

(i) Expenditures and costs for child day care necessary to support the employment of a parent or other relative;

(ii) Foster care maintenance payments; and

(iii) Adoption assistance payments.

(3) A State applying for an amount of Federal funds under title IV-B greater than the amount of title IV-B funds received by that State in FY 1979 shall certify:

(i) The amount of their expenditure in FY 1979 for child welfare services as described in paragraphs (f) (1) and (2) of this section, and

(ii) The amount of State and local funds that have been appropriated and are available for child welfare services as described in paragraphs (f)(1) and (2) of this section for the fiscal year for which application for funds is being made.

Records verifying the required certification shall be maintained by the State and made available to the Secretary as necessary to confirm compliance with this section.

(g) *Reallotment.* (1) When a State certifies to the Commissioner that funds available to that State under its title IV-B allotment will not be required for carrying out that State's plan, those funds shall be available for reallotment to other States.

(2) When a State, after receiving notice from the Commissioner of the availability of funds, does *not* certify by a date fixed by the Commissioner that it will be able to obligate during the fiscal year all of the funds available to it under its title IV-B allotment, those funds shall be available for reallotment to other States.

(3) The Commissioner may reallot available funds to another State when he determines that—

(i) The requesting State's plan requires funds in excess of the State's original allotment; and

(ii) The State will be able to obligate the additional funds during the current fiscal year.

(4) To be eligible to receive funds under the reallocation provisions of this paragraph, the State shall submit an application by the date and in the form prescribed by the Commissioner.

(h) *Fiscal year of expenditures.* An expenditure under an annual budget will be charged to the FY in which the obligation was incurred (the year the Federal funds were awarded). Such budgets and expenditure reports as are required by the Commissioner will be prepared on this basis. For the purposes of this section and this paragraph, "obligation" means only bonafide encumbrances or commitments which are supported by contracts or other evidence of liability consistent with State purchasing procedures.

(i) *Liquidation of obligations.* All obligations of the State agency incurred in carrying out the annual budget must be liquidated within 2 years or the period within which claims must be filed under title IV-B, whichever is earlier.

(Approved by the Office of Management and Budget under control number 0989-0047)

[47 FR 30928, July 15, 1982]

§ 1357.40 Direct payments to Indian Tribal Organizations (title IV-B, subpart 1, child welfare services).

(a) *Who may apply for direct funding?* Any Indian Tribal Organization (ITO) that meets the definitions in section 428(c) of the Act, or any consortium or other group of eligible tribal organizations authorized by the membership of the tribes to act for them, is eligible to apply for direct funding if the ITO, consortium or group has a plan for child welfare services that is jointly developed by the ITO and the Department.

(b) *Joint planning.* For purposes of this section, Joint Planning means ITO and Federal review and analysis of the ITO's child welfare services including analysis of the service needs of children and their families, selection of unmet service needs that will be addressed in a plan for program improvement, and development of goals and objectives to enhance the capability of

the tribe providing child welfare services.

(c) *Title IV-B plan requirements.* The Indian Tribal Organization's title IV-B plan must meet all of the requirements of this paragraph. With respect to paragraph (c)(1) through (c)(5), of this section, the Indian Tribe/ITO must meet the requirements applicable to the State/State (or local) agency.

(1) Sections 422(a) and 422(b) (2) through (8) of the Act;

(2) 45 CFR 1355.20 and the definition of child welfare services in 45 CFR 1357.10(c);

(3) 45 CFR 1355.21(a);

(4) 45 CFR 1357.15(e);

(5) 45 CFR 1355.30 except that requirements of paragraphs (i) and (m) do not apply;

(6) The name of the ITO;

(7) A brief description of the ITO;

(8) A brief description of the legal and organizational relationship of the Tribal Organization to the Indians in the area to be served;

(9) A statement of the legal responsibility, if any, for children who are in foster care on the reservation and those awaiting adoption;

(10) A description of tribal jurisdiction in civil and criminal matters, existence or nonexistence of a tribal court and the type of court and codes, if any;

(11) An identification of the standards for foster family homes and institutional care and day care;

(12) The Indian Tribal Organization's political subdivisions, if any;

(13) Whether the Tribal Organization is controlled, sanctioned or chartered by the governing body of Indians to be served and if so, documentation of that fact;

(14) Any limitations on authorities granted the ITO; and

(15) The tribal resolution(s) authorizing it to apply for a direct title IV-B grant under this part.

(d) *Submission of the title IV-B services plan and annual budget request.* (1) The ITO's title IV-B Annual Budget Request must be submitted, in a form and manner prescribed by the Department to the appropriate regional Office, ACYF.

(2) The title IV-B services plan must be submitted to the appropriate Regional Office, ACYF, in a form, determined by the ITO.

(3) (i) ITO's title IV-B plan may, at the ITO's option, be submitted in two parts. One part may contain the information and assurances that typically remain in effect on an on-going basis. This part of the plan may be submitted one time only but must be amended when significant changes occur in an ITO's program.

(ii) The items in paragraph (c) of this section that may be submitted on a one time only basis are: the assurances required by section 422(b)(1) through (4) and (7) and (8) of the Act and the information required in paragraphs (c) (6) through (15) of this section.

(iii) The second part of the ITO's IV-B plan must be submitted and in effect for one, two or three fiscal years. The ITO may select which of the three intervals it wishes to use. This part of the plan must contain the information required by section 422(b) (5) and (6) of the Act.

(4) Upon submission to the appropriate Regional Office, ACYF, of a jointly developed plan, the ITO must promptly notify the title IV-B agency of the State(s) in which the tribe is located of the submission.

(e) *Coordination of services.* (1) In meeting the requirements of section 422(b)(2) of the Act, the ITO's plan must assure coordination of services with other Federal, State or tribal programs to ensure maximum availability and utilization of resources that promote and enhance the welfare of children, youth and families served under title IV-B.

(2) For purposes of coordination, the ITO must provide a copy of its plan to the State(s) upon request. The ITO must also make its title IV-B plan and plan amendments available for public review and inspection.

(f) *Requirements for eligibility for additional payments.* (1) For any fiscal year after FY 1979 in which a sum in excess of \$141,000,000 is appropriate under section 420 of the Act, an ITO is not eligible for payment of an amount greater than the amount for which it would be eligible if the appropriation were equal to \$141,000,000 unless the Indian Tribe/

ITO has implemented the requirements applicable to the State/State agency in section 427(a) of the Act.

(2) If, for each of any two consecutive fiscal years after fiscal year 1979, there is appropriated under section 420 of the Act a sum equal to or greater than \$266,000,000, a Tribe's allotment amount for any fiscal year after those two consecutive fiscal years must be reduced to an amount equal to what the allotment amount would have been for fiscal year 1979 unless the Indian Tribe/ITO has implemented the requirements applicable to the State/State agency in section 427(b) of the Act.

(3) The provisions applicable to the State/State agency in 45 CFR 1357.25 (d) and (e) apply to the Indian tribe/ITO.

(g) *Grants: General.* (1) Grants may be made to eligible Indian Tribal Organizations in a State which has a jointly developed Child Welfare Services Plan under title IV-B of the Act.

(2) Federal funds made available for a direct grant to an eligible ITO shall be paid by the Department, from the title IV-B allotment for the State in which the ITO is located. Should a direct grant be approved, the Department shall promptly notify the State(s) affected.

(3) If an eligible ITO includes population from more than one State, a proportionate amount of the grant will be paid from each State's allotment.

(4) The receipt of title IV-B funds must be in addition to and not a substitute for funds otherwise previously expended by the ITO for child welfare services.

(5) The Indian Tribe/ITO must adhere to the requirements applicable to the State/State agency in 45 CFR 1357.30, Fiscal Requirements (title IV-B).

(6) In order to determine the amount of Federal funds available for a direct grant to an eligible ITO, the Department shall first divide the State's title IV-B allotment by the number of children in the State, then multiply the resulting amount by a multiplication factor determined by the Secretary, and then multiply that amount by the number of Indian children in the ITO population. The multiplication factor will be set at a level designed to

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achieve the purposes of the Act and revised as appropriate.

[48 FR 23118, May 23, 1983, as amended at 60 FR 28737, June 2, 1995]

SUBCHAPTER H—FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAMS

PART 1370—FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAMS

Sec.

1370.1 Purpose.

1370.2 State and Indian tribal grants.

1370.3 Information and technical assistance center grants.

1370.4 State domestic violence coalition grants.

1370.5 Public information campaign grants.

AUTHORITY: 42 U.S.C. 10401 *et seq.*

SOURCE: 61 FR 6793, Feb. 22, 1996, unless otherwise noted.

§ 1370.1 Purpose.

This part addresses sections 303, 308, 311, and 314 of the Family Violence Prevention and Services Act (the Act), as amended (42 U.S.C. 10401 *et seq.*). The Act authorizes the Secretary to implement programs for the purposes of increasing public awareness about and preventing family violence; providing immediate shelter and related assistance for victims of family violence and their dependents; and providing for technical assistance and training relating to family violence programs to States, tribes, local public agencies (including law enforcement agencies, courts, legal, social service, and health care professionals), non-profit private organizations and other persons seeking such assistance. All programs authorized under the Act are funded subject to the availability of funds.

§ 1370.2 State and Indian tribal grants.

Each grantee awarded funds under section 303 of the Act must meet the statutory requirements of the Act and all applicable regulations. An announcement which describes the appli-

cation process, including information on statutory requirements, other applicable regulations, and any required financial and program reports, is published in the FEDERAL REGISTER.

§ 1370.3 Information and technical assistance center grants.

Each grantee awarded funds under section 308 of the Act must meet the statutory requirements of the Act and all applicable regulations. An announcement which describes the application process, including information on statutory requirements, other applicable regulations, and any required financial and program reports, is published in the FEDERAL REGISTER.

§ 1370.4 State domestic violence coalition grants.

Each grantee awarded funds under section 311 of the Act must meet the statutory requirements of the Act and all applicable regulations. An announcement which describes the application process, including information on statutory requirements, other applicable regulations, and any required financial and program reports, is published in the FEDERAL REGISTER.

§ 1370.5 Public information campaign grants.

Each grantee awarded funds under section 314 of the Act must meet the statutory requirements of the Act and all applicable regulations. An announcement which describes the application process, including information on statutory requirements, other applicable regulations, and any required financial and program reports, is published in the FEDERAL REGISTER.